

WASHINGTON

Executive Registry

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March 4, 1981

MEMORANDUM FOR THE CABINET

FROM: CRAIG FULLER

RE: CABINET MEETING - MARCH 5, 1981

Enclosed is a copy of the Agenda for tomorrow's Cabinet meeting and a copy of Fred Fielding's memorandum on the Senior Executive Service (Item 2-A of the Agenda).

WASHINGTON

CABINET MEETING AGENDA

March 5, 1981 -- 3:<sup>00</sup>30 PM

- |                                     |   |
|-------------------------------------|---|
| 1. Barnwell and Three Mile Island   | The President                               |
| 2. Personnel                        |   |
| A. Senior Executive Service         | Lyn Nofziger<br>Don Devine<br>Fred Fielding |
| B. Reduced Personnel Levels         | David Stockman                              |
| 3. Legislative Policy Review        | Ed Harper<br>Max Friedersdorf               |
| 4. Speeches and Press Contact       | Jim Baker                                   |
| 5. Interdepartmental Working Groups | Ed Meese                                    |

CABINET MEETING PARTICIPANTS

March 5, 1981 -- 3:00 PM

The Cabinet -- All members

James A. Baker III  
Michael K. Deaver  
Richard V. Allen  
Martin Anderson  
James Brady  
Dave Gergen  
Murray Weidenbaum  
Richard Darman  
Craig Fuller  
Daniel Murphy  
Ken Khachigian  
Kare Hart

For Presentations:

Max Friedersdorf  
Ed Harper  
Pen James  
Lyn Nofziger  
Fred Fielding  
Don Devine

THE WHITE HOUSE

WASHINGTON

March 4, 1981

MEMORANDUM FOR THE SECRETARY OF STATE  
THE SECRETARY OF THE TREASURY  
THE SECRETARY OF DEFENSE  
THE ATTORNEY GENERAL  
THE SECRETARY OF THE INTERIOR  
THE SECRETARY OF AGRICULTURE  
THE SECRETARY OF COMMERCE  
THE SECRETARY OF LABOR  
THE SECRETARY OF HEALTH AND HUMAN SERVICES  
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT  
THE SECRETARY OF TRANSPORTATION  
THE SECRETARY OF ENERGY  
THE SECRETARY OF EDUCATION

FROM: FRED FIELDING *FF*

SUBJECT: Senior Executive Service

The Senior Executive Service (SES) is divided into career and non-career positions and this distinction affects selection, qualifications, reassignment and removal of individuals in the SES. Following is a very brief explanation of Agency Heads' authority in dealing with the SES:

SES Positions

There are a set number of SES positions in each agency. Allocation is made by the Office of Personnel Management from a pool established by statute. Positions are designated either career-reserved or general. Career-reserved positions may be filled only with career people on a merit basis under the agency's career recruitment program. General positions may be filled by either career or non-career people, but the number of non-career appointments is also fixed by OPM.

Non-career SES

- o Positions may be filled by the agency on a non-competitive basis,
- o Qualifications are determined by the agency,
- o May be reassigned to other non-career positions in agency head's discretion,

- o May be removed or asked to resign because of "lack of confidence" but not solely on the basis of political affiliation unless affiliation is essential to job performance,
- o No rights to appeal removal.

#### Career SES

- o Career-reserved positions must be filled on a competitive basis under agency selection procedures,
- o Qualifications of the appointee are subject to review by the Office of Personnel Management,
- o May be reassigned on a truly voluntary basis,
- o May not be involuntarily reassigned or removed except for cause for 120 days after appointment and commissioning of the agency head or immediate non-career supervisor,
- o May be involuntarily reassigned after 120 days if given 15 days notice. Reassignment may be made to any career or general SES position in the agency or to another agency so long as the individual is qualified and the other agency agrees,
- o May not be rated on performance during the first 120 days after appointment of agency head or supervisor,
- o May be removed from SES for unsatisfactory executive performance only after notice and opportunity for informal hearing before the Merit Systems Protection Board and may retain placement rights in a non-SES position with the agency,
- o May be removed from government service for cause with proper notice, hearing and appeal procedures,
- o Regulations on procedures and placement rights in instances in which functions are abolished or personnel complements are reduced are being prepared by OPM and will be furnished later.

#### Procedural Protections

OPM has issued regulations concerning the selection, appointment, reassignment and removal of persons in the SES. In addition, individual agencies have issued supplementary regulations.

Failure to follow the regulations may result in reversals of agency action by the Merit Systems Protection Board or the courts. Historically more personnel actions are reversed for procedural irregularity than on substantive grounds. Moreover, some courts have held officials personally liable for improper personnel actions.

#### Individual Status

The rights of an individual in SES are determined not only by the classification of the position but also by the status of the individual. Thus, a career SES official may accept a Presidential appointment yet retain rights to return to the SES. The rights of an individual to placement in a non-SES position in the agency may depend on his status prior to appointment to the SES. Before taking any action on an SES member the status of the individual should be checked.

#### Individualized Judgments

The creation of SES was intended to give an agency head greater flexibility in managing his agency with people in whom he had confidence. SES personnel are rated on executive performance which includes ability to carry out the policies of the Administration and the agency head. Unsatisfactory performance is a basis for removal from SES. The system was also intended to establish a corps of career managers who would bring continuity and government expertise to federal service. The 120 day restriction on removal or reassignment was designed to assure that agency heads would review the actual performance of individual SES managers rather than make blanket judgments based on service in a prior Administration. In the first test of SES following a change of Administration, care must be taken to insure that the spirit of the process is observed and that procedural requirements are followed.

Notes for the DCI -- Cabinet Item on the Senior Executive Service

The Senior Executive Service (SES), a major provision of the Civil Service Reform Act of 1978, was instituted in all covered agencies on 1 July 1979. Although the Central Intelligence Agency (CIA) was exempted from the provision of the Civil Service Reform Act, CIA studied applicability of the SES concept for this Agency. The Director of Central Intelligence subsequently approved on 1 October 1979 a Senior Intelligence Service (SIS) similar to the SES. Entry into the SIS system for eligible employees was effected 1 November 1979.

CIA's SIS system closely follows the general purposes and principles provided for in the Civil Service Reform Act of 1978. In CIA's system, however, both managers and specialists are included. In addition, SIS positions and members are not classified career or non-career as is the case in the SES system.

The SIS system comprises three distinct principles. The first is accountability for effectiveness and productivity as outlined in an Advance Work Plan (AWP) and reported upon annually in a Performance Appraisal Report (PAR). Secondly, exceptional accomplishments are recognized with timely and tangible performance awards recommended by managers and panels based upon defined performance levels and approved by the Director of Central Intelligence. Thirdly, the Senior Officer Development Plan (SODP) is an integral part of the system and provides developmental experiences for both SIS officers and the feeder group and formalizes a succession planning list.

STAT The system has worked through one cycle. Rank stipends and performance awards were awarded [ ] senior officers in December 1980. The decision process on who received awards and how the awards were allocated met with general acceptance within the entire CIA population.

Normally, selection into the SIS system is from an internal CIA feeder group and results in a promotion to the SIS-1 level. Subsequent promotions offer the potential to progress to the SIS-6 level. In some instances external recruitment is used to fill SIS level positions when specific talents and skills are not available internally. All officers entering the SIS system serve a one-year probationary period. Those officers whose performance levels do not meet established standards are either removed from the SIS or Agency. To date, all SIS members have met or exceeded established performance standards.

Unlike other Federal agencies, all individuals holding SIS rank serve at the pleasure of the Director of Central Intelligence. This was also the case for most of the Agency's history when these high-level individuals were characterized as Supergrades.

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